

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 PETER GREEN, BERGLIOTH MATTHEWS,
4 And others similarly situated,

Case No. C 06-6953 SI
Hon. Susan Illston

5 Plaintiff(s),

SO ORDERED
STIPULATION FOR
NOTICE TO POTENTIAL
OPT-IN PLAINTIFFS AND
FOR DISCOVERY OF NAMES
AND ADDRESSES OF SAME

6 -against-

7 CITY AND COUNTY OF SAN FRANCISCO
8 CALIFORNIA, A MUNICIPAL CORPORATION,;

9 Defendant.

10 MICHAEL MOYNIHAN,
11 And others similarly situated,

Case No. C06-7071 SI

12 Plaintiff(s),

13 -against-

14 CITY AND COUNTY OF SAN FRANCISCO
15 CALIFORNIA, A MUNICIPAL CORPORATION,;

16 Defendant.

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18 We, the attorneys for the respective parties, do hereby stipulate and agree
19 as follows:

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21 (1) To facilitate the notice of these pending lawsuits to other potentially similarly
22 situated current and former employees of defendant, the attorneys for the parties agree
23 to the sending of the Notice submitted with this stipulation and consent to the court
24 authorizing the sending of such notice to those current and former employees of
25 defendant who, during some time during the past three years immediately preceding the
26 date of this stipulation, were employed by the City and County of San Francisco as an
27 H3 Firefighter/Paramedic and worked exclusively on EMS vehicles in at least one seven
28


1 calendar day workweek during that period, actually worked more than forty hours in at
2 least one such workweek during that time period and were not paid at a rate of time and
3 one-half their regular rate of pay for all hours so worked over forty in such workweek(s);
4 and the undersigned further stipulate;

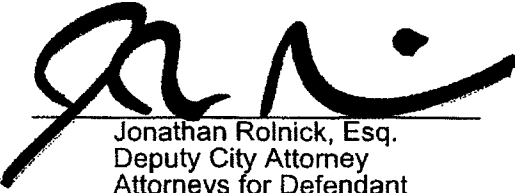
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6 (2) that the defendant shall, within fourteen (14) days after the court "so orders" this
7 stipulation, mail the attached notice to the potentially similarly situated current and
8 former employees described in paragraph (1) above (excepting plaintiffs who have
9 already filed consents with the Court in either this case or the two pending related cases
10 as set forth on the docket for this case). The defendant shall mail the notices by regular
11 first class mail to the home addresses contained in the employee's personnel file, and
12 shall send plaintiffs' counsel a proof of service with a list of the names and addresses
13 and date of mailing within three (3) days after the notices have been mailed. The
14 defendant reserves its right to contend that the reasonable expense of publication and
15 distribution shall be recoverable from plaintiffs, as a cost of litigation, at the termination
16 of this litigation.

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18 (3) The deadline for the filing of consents to become a plaintiff in this lawsuit shall be
19 July 1, 2007. No person shall be permitted to file a consent in this lawsuit after that
20 date. The parties stipulate that the filing of any additional consents in this case shall not
21 delay or impede participation in a meaningful settlement conference as ordered by the
22 Court.

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24 (4) The parties, by entering into this stipulation, do not waive any arguments, issues,
25 claims or defenses related to the substance of this stipulation.

1 Dated: May 14, 2007

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6 Robert A. Jones, Esq.
7 Chamberlain, Kaufman & Jones


Jonathan Rolnick, Esq.
Deputy City Attorney
Attorneys for Defendant

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12 David P. Clisham
Chlsham & Sortor

Michael McGill
Lackie & Dammeier

13 Attorneys for Plaintiffs in *Green*

Attorneys for Plaintiffs in *Moynihan*

14
15 The attached Notice is hereby authorized and shall be sent in accordance with
16 the terms of the parties' stipulation. Defendant shall provide to plaintiffs' attorneys, by
17 facsimile, within seven (7) days of this order, the names and last known addresses of
the current and former employees who fit the description contained in paragraph (1)
above.

18 IT IS SO ORDERED.


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21 5/17/07

22 Dated: _____, 2007


United States District Judge

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24 Enter:
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1 Dated: May 24, 2007

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6 Robert A. Jones, Esq.
7 Chamberlain, Kaufman & Jones

Jonathan Rolnick, Esq.
Deputy City Attorney
Attorneys for Defendant

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10 
11 David P. Clisham
12 Chlisham & Sortor

Michael McGill
Lackie & Dammeier

13 Attorneys for Plaintiffs in *Green*

Attorneys for Plaintiffs in *Moynihan*

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17 facsimile, within seven (7) days of this order, the names and last known addresses of
the current and former employees who fit the description contained in paragraph (1)
above.

18 **IT IS SO ORDERED.**

19
20
21
22 Dated: _____, 2007

United States District Judge

23
24 Enter:

1 Dated: May __, 2007
2
3
4
5

6 _____
7 Robert A. Jones, Esq.
8 Chamberlain, Kaufman & Jones
9

_____ Jonathan Rolnick, Esq.
Deputy City Attorney
Attorneys for Defendant

10 _____
11 David P. Clisham
12 Chlisham & Sortor

10 
11 _____ Michael McGill
12 Lackie & Dammeier

13 Attorneys for Plaintiffs in *Green*

Attorneys for Plaintiffs in *Moynihan*

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17 facsimile, within seven (7) days of this order, the names and last known addresses of
the current and former employees who fit the description contained in paragraph (1)
above.

18 IT IS SO ORDERED.
19
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22 Dated: _____, 2007

United States District Judge

23
24 Enter:
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PETER GREEN, BERGLIOTH MATTHEWS,
And others similarly situated, :

Case No. C06-6953 SI

Plaintiff(s), :

-against- :

CITY AND COUNTY OF SAN FRANCISCO
CALIFORNIA, A MUNICIPAL CORPORATION, :

Defendant.

MICHAEL MOYNIHAN,
And others similarly situated, :

Case No. C06-7071 SI

Plaintiff(s), :

-against- :

CITY AND COUNTY OF SAN FRANCISCO
CALIFORNIA, A MUNICIPAL CORPORATION, :

Defendant.

NOTICE

To: H3 Firefighter/Paramedics employed by the City and County of San Francisco who, during some time in the past three years have worked exclusively on EMS vehicles throughout at least one seven calendar-day workweek and who, during at least one such workweek, actually worked in excess of forty hours.

Re: Fair Labor Standards Act Lawsuit Against the City and County of San Francisco

THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE FEDERAL DISTRICT COURT, HONORABLE SUSAN ILLSTON, UNITED STATES DISTRICT COURT JUDGE. THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF THE PLAINTIFFS' CLAIMS OR OF THE DEFENDANTS' DEFENSES. BY AUTHORIZING THIS NOTICE THE COURT NEITHER ENCOURAGES OR DISCOURAGES YOU FROM JOINING THIS LAWSUIT.

1. The purpose of this Notice is to inform you of the existence of lawsuits in which you potentially are "similarly situated" to the existing Plaintiffs, to advise you of how your rights may be affected by these suits, and to instruct you on the procedure for participating in one of these suits should you decide that it is appropriate and should you choose to do so.

2. On November 7, 2006, two firefighter/paramedics employed by the City and County of San Francisco, brought a lawsuit against defendant City and County of San Francisco, alleging that they were owed unpaid wages and overtime pay under the federal Fair Labor Standards Act. The case is titled *Green, et al v. City of San Francisco*. On November 14, 2006, another lawsuit was separately brought by other firefighter/paramedics. The case is titled *Moynihan, et al v. City of San Francisco*. Both cases are at the early pretrial stages.

The lawsuits allege, among other contentions, that the defendant has improperly paid firefighter/paramedics under the provisions of the federal Fair Labor Standards Act by treating them as partially exempt from overtime pay under the provisions of 29 U.S.C. §207(k) and thereby failed to pay them for all hours worked over forty in a seven day workweek at rate of one and one-half times their regular rate of pay. The plaintiffs allege that they are entitled to recover back pay, plus liquidated damages in an equal amount or prejudgment interest, attorneys' fees, and costs.

The City has denied any violation of the Fair Labor Standards Act. The City contends that firefighter/paramedics have been properly paid, and that under the applicable statutes and regulations plaintiffs are not entitled to the claimed overtime pay.

3. Under the provisions of the Fair Labor Standards Act, "similarly situated" employees may join an existing action by filing a "consent to become party plaintiff" with the Court. However, you are not required to join and, if you

choose not to join, you will not be affected by any judgment or settlement, whether favorable or unfavorable.

4. If you are or were employed by the City and County of San Francisco as an H3 Firefighter/Paramedic employed by the City and County of San Francisco, and during some time in the past three years have worked exclusively on EMS vehicles throughout at least one seven calendar-day workweek and, during at least one such workweek, actually worked in excess of forty hours, you may join one of these actions if you wish, but need not do so if you do not wish to do so. Should you wish to join either of these actions you must file a "consent to become party plaintiff" with the Court by July 1, 2007. You may not join in both actions.

5. If you choose to join either of these lawsuits, you will be bound by the judgment or settlement, whether it is favorable or unfavorable. While these lawsuits are proceeding, you may be required to respond to written questions, sit for depositions and/or testify in Court. Additionally, arrangements for the payment of costs or attorneys' fees will have to be made with counsel for Plaintiffs. If you do not join either of these lawsuits you will not be affected by any judgment or settlement, whether favorable or unfavorable. If you choose not to join either of these lawsuits, you are free to file your own lawsuit, or not, as you are advised.

6. For further information about this Notice, or the procedure for joining either of these actions if you should so desire, you may contact either of the attorneys listed below in the box on page 4. You are, of course, under no obligation to do so.

<p>To Join: <i>Green, et al v. City of San Francisco</i></p> <p>Contact: Robert A. Jones Chamberlain, Kaufman & Jones 35 Fuller Road, Suite 207 Albany, New York 12205 phone: (518) 435-9435 fax: (518) 435-9102</p> <p>or</p> <p>David P. Clisham Clisham & Sortor Hobart Building 582 Market Street, Suite 603 San Francisco, California 94104 phone: (415) 291-0855</p> <p>Obtain consent form for this case by sending e-mail request to: RAJ@FLSA.COM</p>	<p>To Join: <i>Moynihan, et al v. City of San Francisco</i></p> <p>Contact: Michael A. McGill, Dieter C. Dammeier, or Michael D. Lackie LACKIE & DAMMEIER 367 N. 2nd Avenue Upland, California 91687 phone: (909) 985-4003 or (800) 478-7643 fax: (909) 985-3299</p> <p>Obtain consent form for this case by downloading consent form at: www.policeattorney.com/FLSA</p>
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7. The defendant City and County of San Francisco is represented by Jonathan Rolnick and Margaret Baumgartner, Deputy City Attorneys, Fox Plaza, 1390 Market Street, 5th Floor, San Francisco, California 94102.

8. Federal law prohibits any employer from discharging or in any other manner discriminating against an employee who exercises rights under the Fair Labor Standards Act.